

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
BANKRUPTCY DIVISION
ST. THOMAS & ST. JOHN, VIRGIN ISLANDS

IN RE:	:	
	:	BANKRUPTCY NO. 3-07-30006-JKF
BAYSIDE RESORT, INC.,	:	
Debtor	:	
	:	Chapter 7
SBRMCOA, LLC,	:	
	:	
Plaintiff,	:	
v.	:	
	:	Adversary No. 3-07-3007-JKF
GILBERT J. de BOTTON,	:	
FRANK D. PALMER,	:	Re: Docket No. 1
BLUEWATER (SAPPHIRE) LTD.,	:	Response Date: December 3, 2007
FLAGSHIP RESORTS, LTD.,	:	
FLAGSHIP MARKETING, LTD.,	:	
THE TALON GROUP, INC.,	:	
BEACHSIDE ASSOCIATES, LLC	:	
	:	
Defendants	:	

MOTION TO DISMISS BY
DEFENDANTS GILBERT J. de BOTTON, FRANK D. PALMER,
BLUEWATER SAPPHIRE LTD, FLAGSHIP RESORT LTD,
FLAGSHIP MARKTING LTD, AND THE TALON GROUP INC.

COME NOW Defendants Bluewater Sapphire Limited, Flagship Resort Limited, Flagship Marketing Limited, The Talon Group, Inc., (collectively “the Corporate Defendants”), Gilbert J. de Botton (“Mr. deBotton”) and Frank D. Palmer (“Mr. Palmer”) (all collectively referred to as “Movants”), through undersigned counsel, and move this Court for dismissal of all claims asserted against them in this Adversary Proceeding with prejudice, pursuant to Fed. R. Bankr. P. 7012(b) and Fed. R. Civ. P. 12 (b)(6) , for failure to state a claim upon which relief can be granted. The allegations in the COA’s Petition, even if true, are not sufficient to support substantive consolidation of these defendants—

In re: Bayside Resort, Inc.

Motion To Dismiss By Defendants Gilbert J. deBotton, Frank D. Palmer, Bluewater Sapphire Ltd., Flagship Resort Ltd., Flagship Marketing Ltd., and the Talon Group Inc.

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all non debtors-- with the estate of the Debtor. To the extent that the COA's Petition could be interpreted to allege any other claims against these Defendants, the Complaint must be dismissed because this Court lacks subject matter jurisdiction over any purported claims of the COA, an unsecured creditor, against a group consisting of other unsecured creditors and non parties.

This Motion is supported by the Annexed Memorandum of Law, the pleadings and documents of record in this action and in *In re Bayside Resort Inc.*, Case No. 07-30006.

Dated: December 3, 2007

Respectfully submitted

DUDLEY, CLARK & CHAN

/s/ Carol Ann Rich

CAROL ANN RICH ESQ.

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